

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER d: FORESTRY

PART 1535
TIMBER BUYER LICENSING AND HARVEST FEES

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AUTHORITY: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].

SOURCE: Adopted and codified at 8 Ill. Reg. 4492, effective March 28, 1984; amended at 9 Ill. Reg. 2942, effective February 26, 1985; amended at 12 Ill. Reg. 16018, effective September 27, 1988; amended at 13 Ill. Reg. 19954, effective December 12, 1989; amended at 15 Ill. Reg. 5219, effective March 28, 1991; amended at 16 Ill. Reg. 8499, effective May 26, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389, amended at 27 Ill. Reg. 7761, effective April 21, 2003.

Section 1535.1 Timber Buyer's License

- a) All timber buyers, as defined by the Illinois Timber Buyers Licensing Act [225 ILCS 735/2], shall obtain a license from the Department before engaging in the business of timber buying. Application for such license shall be filed on forms provided by the Department and shall contain the following minimum information:
- 1) Name of applicant;
 - 2) Principal officers if applicant is a corporation or the partners if applicant is a partnership;
 - 3) Location of the principal office or place of business of the applicant;
 - 4) The counties in which the applicant proposes to engage in the business of timber buyer;

- 5) The names and addresses of any persons authorized to purchase timber in the name of the licensed buyer;
 - 6) Type and amount of bond; and
 - 7) Any other information as required by the Department.
- b) Only persons listed with the Department as authorized buyers may represent the licensee. Authorized buyers shall designate in all contractual arrangements that the licensee is the timber buyer. Failure to comply with this provision shall constitute "buying timber without a timber buyer's license". Authorized buyers may only be listed on one license. To be eligible to hold a timber buyer's license, the applicant must be at least 18 years of age.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.5 Records

The books, accounts, records and papers used in the conduct of a timber buyer's business must contain, at a minimum, the following information regarding each timber purchase:

- a) date of purchase. For all purposes, except the payment of harvest fees, the date of purchase shall be the date the purchase agreement was made;
- b) date of payments;
- c) amount of payments;
- d) amount of harvest fee;
- e) date harvest fee sent to Illinois Department of Natural Resources; and
- f) name, address and telephone number of seller.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.10 Payment of 4% Fee to Department

- a) All 4% harvest fees collected from timber owners or values determined in barter transactions or in timber harvests by owners from their lands shall be sent to the Department of Natural Resources (Department or DNR) accompanied by a completed Form FPF-1 (Harvest Fee-Report of Purchase) as supplied by the Department.
- b) Any timber buyer purchasing timber from the federal government shall not be required to deduct the 4% harvest fee from the purchase price, report such purchases

or make payment to the Department of an amount that equals 4% of the purchase price.

- c) Payments are to be made payable to the Department of Natural Resources and must be in the exact amount shown due on the accompanying Form FPF-1.

When any payment is returned to the Department by the Office of the State Treasurer as non-negotiable, the person issuing the check or order will be given written demand delivered by certified mail for payment equal to the original amount by certified instrument, such as a cashier's check or money order, to the person's last known address. Failure to pay the original amount within 30 days after such delivery shall result in the bond being forfeited to the Department.

- d) Payments to the Department may be made on an individual sales or quarterly basis. A quarterly and individual sales report cannot be filed for the same quarter. Quarters are established by the calendar year and shall be for the periods of: January-March, April-June, July-September, October-December.
- e) All timber transactions for which monies are due to the Department shall be submitted by the last day of the month following the end of each quarter.

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.15 Bonding Definitions

- a) Bond means surety bond or other security in lieu thereof described in 225 ILCS 735/4.
- b) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the timber buyer as principal and that is supported by the guarantee of a corporation authorized to transact business as a surety in Illinois.
- c) Other security means an indemnity agreement in a sum certain executed by the timber buyer as principal that is supported by the deposit with the Department of one or more of the following:
 - 1) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;
 - 2) Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.

(Source: Added at 26 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.16 Bonding Requirements

a) Surety Bond Requirements

- 1) Bonds shall be signed by the timber buyer as principal, and by a good and sufficient corporate surety, authorized to transact business as a surety in Illinois.
- 2) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 60 days notice to the Department. The notice shall be served upon the Department in writing by registered or certified mail to the Department's Springfield offices.
- 3) Prior to the expiration of the 60 days notice of cancellation, the timber buyer shall deliver to the Department a replacement bond. If the bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 60 day period.

b) Other Securities Requirements

- 1) Letters of credit shall be subject to the following conditions:
 - A) The letter may only be issued by a bank organized or authorized to do business in the United States (issuing bank). If the issuing bank does not have an office for collection in Illinois, there shall be either a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois, or an Illinois registered agent designated by the issuing bank.
 - B) Letters of credit shall be irrevocable during their terms. A letter of credit shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.
 - C) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.
- 2) Certificates of deposit shall be subject to the following conditions:
 - A) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the

records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

- B) Any interest accruing on a certificate of deposit shall be for the benefit of the timber buyer.
- C) The certificate of deposit, if a negotiable instrument, shall be placed in the Department's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the timber buyer, shall be placed in the Department's possession.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.20 Value Determination for Payment of 4% Fees

- a) The value of timber purchased shall be the gross amount received by the owner and paid by the timber buyer for any interests involved in the timber purchase.
- b) When timber is purchased in whole or in part by barter, the fair market value of the bartered item or service used as payment for timber or logs to the timber owner shall be used in determining the harvest fee due the Department of Natural Resources. Any payment made from any source shall require a 4% harvest fee payment to the Department.
- c) If timber is cut from an owner's land without establishing the amount to be paid or the bartered value of the timber or logs, such timber or logs shall have the value set at the point in the marketing system where ownership changes at the mill or primary processing plant.
 - 1) When harvested logs (used for lumber, cooperage, piling or veneer) are piled and sold but not delivered to the primary plant site by the timber owner, a deduction of \$100 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer.
 - 2) When logs (used for lumber, cooperage, piling or veneer) are sold and delivered to the primary plant site by the timber owner, a deduction of \$125 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer.
 - 3) For pulpwood purchased by weight and delivered to the mill by the timber

owner, 50% of the purchase price may be deducted prior to determining the 4% harvest fee.

- d) Value determination methods at the mill site, other than for logs for lumber, cooperage, piling, veneer, or pulpwood, shall be determined by the Department on request. All requests must state in detail the nature of the product and method of determining mill site value.
- e) For timber cut on lands owned by a timber buyer or mill and used by that timber buyer or mill in its production process, value will be determined as a stumpage value. The Illinois Timber Prices Survey, for the quarter when the timber was harvested, may be used as a guide. ("Illinois Timber Prices" survey published by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources.)

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.25 Aggregate Value Determinations of Timber

- a) Primary determination of the aggregate value of timber shall be the total dollar value paid at the first point of sale to a processing facility.
- b) Secondary determination of the aggregate value of timber shall be calculated using the Doyle Log Rule, as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons, to determine volume. The highest dollar amount of the commercial timber for tree species had it been offered for sale on the open market will be used for the price. The "Illinois Timber Prices" report issued by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources, for the time frame of the timber harvest, shall be used to determine the commercial timber value.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.30 Volume Estimates

- a) When volume estimates are used in the determination of value, the following scales and measurements will be used:
 - 1) Lumber, cooperage, & veneer - Board feet taken from the Doyle Log Rule as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons.
 - 2) Pulpwood, ton or cord--As established by local market specifications in use at the time of cutting or delivery to the pulpwood mill.

- 3) Piling--Linear feet by grade within established specifications and dimensions in use by the buyer. If such specifications cannot be determined, the Doyle Log Rule will be used.
- 4) Other specialized forest products - Established local market specification or custom in use at the time of harvest as described by the buyer in a written communication to the Department.
- b) Standard forest mensuration procedures shall be used whenever estimates are substituted for actual measurements provided that the procedure has a probability of error of less than ten percent.
- c) In the establishment of volume-price values, such published price guides as the Illinois Timber Prices Survey may be used as a guide when published by a government agency, accredited school of forestry or trade association.

Section 1535.40 Arbitration (Repealed)

(Source: Repealed at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.50 Information

Anyone wishing additional information concerning this Part, or a supply of Form FPF-1, may contact the Department of Natural Resources at the following address:

Department of Natural Resources
Office of Law Enforcement
One Natural Resources Way
Springfield IL 62702-1271

(Source: Amended at 27 Ill. Reg. 7761, effective April 21, 2003)

Section 1535.60 Penalty

- a) Any person violating the provisions of this Part shall, upon finding of guilt by a court of law, be subject to statutory penalties as prescribed by the Timber Buyers Licensing Act [225 ILCS 735] and to revocation of license and suspension of privileges, as set out in the Timber Buyers Licensing Act.
- b) Any such revocation/suspension procedures shall be governed by the Timber Buyers Licensing Act and by Department Revocation Procedures (17 Ill. Adm. Code 2530).

(Source: Amended at 27 Ill. Reg. _____, effective _____)

